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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ANGELO PENA, ROLANDO ROJAS, JOSE
DIROCHE, and FRANKLIN SANTANA,
*individually and on behalf of others similarly
situated,*

Plaintiffs,

-against-

SP PAYROLL, INC., NICHOLAS PARKING,
CORP., IVY PARKING, CORP.,
BIENVENIDO, LLC, CASTLE PARKING
CORP., SAGE PARKING CORP., and SAM
PODOLAK,

Defendants.

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07 CV 7013

**NOTICE OF MOTION AND
MOTION FOR LEAVE TO
AMEND COMPLAINT UNDER
FED. R. CIV. P. 15(a)(2) AND FOR
OTHER RELIEF**

ECF Case

PLEASE TAKE NOTICE that ANGELO PENA, ROLANDO ROJAS, JOSE DIROCHE, and FRANKLIN SANTANA (the “Named Plaintiffs”), *individually and on behalf of others similarly situated*, as well as eight prospective named plaintiffs CHRISTIAN SANTOS, LUIS RAMON LUNA, MIGUEL ALCANTARA, MIGUEL GARCIA, MIGUEL ROJAS, VICTOR GONZALES, JOSE DE ARCE REYES, and EDISON ALVAREZ (the “Prospective Named Plaintiffs”) (collectively the “Plaintiffs”), hereby move through counsel, pursuant to FED. R. Civ. P. 15(a), to amend the Complaint in this action to *inter alia* (1) add the additional Prospective Named Plaintiffs (under Rule Fed. R. Civ. P. 21 and 15) (who are formerly “opt-in” plaintiffs under the proposed collective action), (2) conform the complaint to facts corrected

and/or obtained in deposition, (3) remove the request for certification of a collective action under 29 U.S.C. 216(b), and (4) file the annexed [Proposed] First Amended Complaint as Plaintiffs' amended pleading in this matter.

PLEASE TAKE FURTHER NOTICE that Plaintiffs hereby move to amend the caption in this matter to add the prospective named Plaintiffs, and remove mention of any collective action under 29 U.S.C. 216(b).

PLEASE TAKE FURTHER NOTICE that Plaintiffs, in seeking amendment of the Complaint, request relation back of the amendment under Fed. R. Civ. P. 15(c), and for all other relief that this Court should deem just and appropriate under the circumstances.

In support of this motion, Plaintiffs file herewith the annexed (1) Affidavit of Michael Faillace, Esq. in Support of Motion for Leave to Amend Complaint and For Other Relief, (2) Memorandum of Law in Support of Motion for Leave to Amend Complaint and For Other Relief (and attachments thereto), and (3) Affidavit of John Karol (attaching the [Proposed] First Amended Complaint.

Dated: July 12, 2008.

Michael Faillace & Associates, P.C.

By: /s/
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